

51
7/19/02
JR

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff

v.

66.84 ACRES OF LAND, MORE
OR LESS, SITUATE IN SOUTH
NEWTON AND SOUTHAMPTON
TOWNSHIPS, CUMBERLAND
COUNTY, COMMONWEALTH OF
PENNSYLVANIA; TUMBLING RUN
GAME PRESERVE; UNKNOWN
OWNERS; and LAWRENCE
J. KEATING, ESQUIRE,

Defendants

CIVIL NO. 1:CV-00-1763

FILED
HARRISBURG, PA

JUL 19 2002

MARY E. D'AMORE, CLERK
Per  Deputy Clerk

ORDER

Before the court is Plaintiff's motion *in limine* to preclude evidence (1) of the Secretary's site selection process; (2) of Defendants' proposed alternative sites; (3) of settlement discussions and proposals; (4) of pre-suit negotiations; and (5) related to any issue resolved by this court's order dated June 14, 2001. A supporting brief, a responsive brief and a reply brief have been filed and the matter is ripe for disposition.


On May 18, 2001, the magistrate judge issued a report recommending that Tumbling Run Game Preserve's ("TRGP") affirmative defenses be stricken and its counterclaim be dismissed. This court adopted the report and recommendation by order dated June 14, 2001. TRGP now claims that the report and

recommendation did not address two issues: (1) whether the National Park Service gave full consideration to minimizing the adverse effects upon TRGP; and (2) whether the amount of land was reasonably necessary to provide passage.

Defendant's brief is totally void of any case law to support its position. In any event, it is this court's opinion that the order of June 14, 2001 struck all affirmative defenses. The only issue remaining for trial is just compensation.

IT IS THEREFORE ORDERED THAT:

- 1) This court adopts the reasoning of Plaintiff's brief in support of its motion in limine and its reply brief;
- 2) Plaintiff's motion *in limine* is **GRANTED**.
- 2) The only issue remaining for trial is just compensation.


SYLVIA H. RAMBO
United States District Judge

Dated: July **19**, 2002.